



**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 19, 1999, 8:00 p.m.

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PUBLIC COMMENTS

Dana Caines, Carisbrook Court, Chair of the Human Services Commission, spoke on behalf of the commission, describing her comments as a form of outreach. The Human Services Commission, eleven members who meet once a month to recommend to Council funding allocations for programs that receive Community Development Block Grant funding. She noted that this includes programs for low-income health care.

John Kyle, 22638 Teakwood Street, expressed deep appreciation for the improvements that have enhanced his neighborhood.

Jason Moreno, 25200 Carlos Bee Boulevard, spoke on Council influences.

Ron Barklow, 1210 Tiegen Drive, referred to a newspaper clipping related to hazards of the Hayward Fault in light of the recent 10th anniversary of the Loma Prieta earthquake. He cautioned against liquefaction and sliding of homes as well as the responsibility for damage.

Bishop J.W. Macklin, Pastor of Glad Tidings Church, invited everyone to and distributed information on a Citywide Day of Fasting and Prayer on Tuesday, October 26, for the betterment of this community.

J.V. McCarthy, 732 B Street, #2, addressed the Council regarding the recent airport rezoning and his concerns for emergency access to the airport tower.

John Gilbertson, 22907 Nevada Road, emphasized his concerns regarding referrals to staff as a result of public comments.

William Blundin, 1089 D Street, commented, once again, on several past police incidents and his history with several City staff members.

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CONSENT

1. Approval of Minutes of the Meeting of the City Council of October 12, 1999.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to approve the Minutes of the Meeting of the City Council of October 12, 1999.

HEARINGS

2. Tentative Map Tract 7047, Site Plan Review 99-130-11 and Variance Application 99-180-08 – Tennyson Homes L.P./Paul Wong (Applicant/Owner) – Request to Subdivide a 1.13+ Acre Parcel into 6 Lots; Approval of Site and Architectural Plans; and a Variance to the Required Lot Depth – The Property is Located at 259 Tennyson Road within an RS (Single-Family Residential) District

Staff report submitted by Senior Planner McClellan, dated October 19, 1999, was filed.

Senior Planner McClellan displayed the site plan depicting the project and the variances needed to develop the six two-story single-family homes. This project is in conformance to the Tennyson-Alquire Neighborhood Plan as it provides low-density in-fill housing units to this community.

He responded to questions from the Council, noting that this is the recommendation from the Planning Commission and the Council has the final action this evening. He indicated that the view corridor is more extensive than normal. He indicated that staff supports the variances due to special circumstances and the developer is adhering to the conditions of the zoning regulations. There was discussion relating to potential graffiti along the wall that will be installed and conditions will be included to plant vines and shrubbery along the wall.

Regarding the conditions addressing recycling construction materials, staff noted that there is a condition that the developer will present a plan for recycling for staff approval. Parking concerns were discussed. The turnaround area curving will be painted red and signage will be installed to reserve this area for emergency turnaround and to preclude any public parking.

Mayor Cooper opened the public hearing at 8:44 p.m.

Deborah Sanchez, 28260 Beatron Way, spoke against the project, stating that this project will be a dangerous condition, there is excessive pavement and walls without houses fronting that side of the street. Additionally, her view, which she has enjoyed for the past 25 years will be blocked. She expressed concern about the variance and stated that it does not look like 80 feet in depth.

Bill Poon, Project Architect, showed a topographic section of the project, which illustrates the



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hill view issue and the gaps necessary between houses for continuing views. He also commented on the traffic to and from the project on Tennyson Road. He commented on the fact that the area is controlled with a traffic signal. He also noted that there is ample time between red lights to egress the project. The Tennyson-Alquire Neighborhood Plan indicated that the Task Force encouraged this site as a church site, which did not work out.

Council Member Ward suggested that a condition might be added that would restrict the landscaping to prevent the furtherance of blocking the view from the home of Ms. Sanchez.

Mr. Poon suggested they could customize a view corridor from Ms. Sanchez lot.

Council Member Henson suggested a revision to the footprint to allow a better view-corridor and it was noted by the architect that it would not be an advantage since the 2-story would allow for more of a view-corridor.

Mayor Cooper closed the public hearing at 8:58 p.m.

Council Member Henson suggested that the developer has attempted to address all of the issues. He then moved the item.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried by all present, to approve the following with an additional condition that would limit the landscape materials to be planted on the lot immediately adjacent to the property owned by Ms. Sanchez that would further block her existing view:

Resolution 99-165, "Resolution Approving the Tentative Map for Tract 7047, Along with Site Plan Review Application No. 99-130-11 and Variance Application No. 99-180-08 for Tennyson Homes, L.P. Paul Wong (Applicant/Owner)"

LEGISLATIVE BUSINESS

3. Consideration of Architectural Design and Lease Agreement Related to Proposed Home Depot -- The Project Site is Adjacent to Hayward Executive Airport and Generally Bound by Hesperian Boulevard, Sueirro Street, Skywest Drive and West "A" Street

A. Review and Approval of Project Design

Staff report submitted by Associate Planner Patenaude, dated October 19, 1999, was filed.

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Associate Planner Patenaude made the staff report relating to Council direction to staff relating to the architectural design used in the San Mateo store, and to determine whether Condition 14 regarding the delivery time, should stand as proposed. It was noted that southbound traffic on Hesperian is heaviest between 6 am and 8 am, so staff supported the recommendation of no change.

Council Member Dowling asked for further clarification of the nursery fencing and why it was not recommended to be a solid wall.

Associate Planner Patenaude said that Planning staff had reviewed various store plans and this one seemed to work.

Council Member Hilson agreed with Council Member Dowling and felt that a solid wall would be more attractive. He then suggested that there should be more vertical articulation to the roofline to preclude the long, warehouse look to the structure.

City Manager Armas explained that staff reviewed the possibility of permitting earlier deliveries as a Condition of Approval provides for deliveries beginning at 8 a.m., as there was concern for noise impacting the operation of the Executive Inn. It was verified that traffic impact is at the highest before that time. He said there would be a separation of 35 feet from the Executive Inn to the Home Depot property, with a total of 85-90 feet between the two actual buildings.

Council Member Ward had a number of questions regarding the proposed lease terms and whether it was consistent with other tenants.

City Manager Armas suggested that what the City is trying to do is to ultimately bring the rental agreements up to market rates.

Public Works Director Butler explained the intent of the rent adjustments at five-year increments with the intent of the CPI to be the adjustment factor and the maximum would be a 10% maximum for a 2% per year increase.

Council Member Hilson expressed extreme concern about the storage of nursery items and merchandise in outdoor areas, commenting on his site visit to the San Mateo store. He preferred to have a two-foot limit for storage of merchandise immediately outside the store, noting safety hazards as customers walk in and out of the store. He was very firm about delineating a specific area in which materials could be stored safely.

Bill Boyl, Greenberg Farrow, architect for Home Depot, explained that outdoor displays are a key to sales, and each community enforces its Conditions of Approval. He said that stores having a line of demarcation for storage areas are the easiest to enforce. He agreed that there must be a clear area specifically set aside for the area of storage, and the store would abide to whatever is agreed upon in the Conditions of Approval.



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Mayor Cooper opened the public hearing at 9:25 p.m.

Ron Barklow, 1210 Tiegen Drive, asked about approval for the Sulphur Creek realignment, the delivery truck noise relative to the Executive Inn, wrought iron fence, and whether soil samples have been analyzed. He commented on the front-page article of the San Francisco Chronicle that involves a lobbyist receiving a large amount of money from Home Depot to insure a store in San Francisco and asked whether anyone in the City of Hayward might be receiving money from Home Depot.

City Attorney O'Toole clarified that the project has been approved and that the business at hand is that Council was simply considering the architectural design and approving a ground lease.

Heather Roden, 26306 Adrian Avenue, asked whether Home Depot has hired a lobbyist to influence the Mayor, members of the Council, and staff, referring to the same article in the San Francisco Chronicle.

Mayor Cooper noted that all of their income and the sources of that income are a matter of public record in the City Clerk's office.

Council resented the implication that there was any wrongdoing.

Council Member Rodriquez responded that there was no reason to believe any member of Council has received Home Depot monies.

Council Member Ward suggested the question be asked of the applicant. He indicated that any payment to anyone in the lobbying business would have to be filed through public record.

John Kyle, 22638 Teakwood Street, suggested that the lease does not reflect the value of the property. This should not be reviewed as the leases for other tenants at the airport since this is a retail operation. He suggested one percent of gross sales be considered.

John Neath, 681 Longwood Avenue stated that he is opposed to any project as the Home Depot on airport property and urged that the Council follow the proper procedure. He also asked about signage on this project and was informed that the signage would be regulated by the sign ordinance.

John Roden, 26306 Adrian Avenue, cited a recent court action related to the approved Home Depot project and reported on the four causes of action. He asked if there was anything restraining this Council from taking further action relating to Home Depot in light of this court petition.

City Attorney O'Toole responded that there was nothing restraining the Council from taking

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action at this time. He indicated that he advises his clients on a confidential basis.

Mayor Cooper closed the public hearing at 9:54 p.m.

It was moved by Council Member Dowling, seconded by Council Member Jimenez, to approve the architectural design and determine that the existing Conditions of Approval are appropriate. Council Member Dowling added that the nursery wall facing Hesperian should be a solid wall. Home Depot should also work with staff on developing additional articulation on the left-hand side of the building to coordinate with the right-hand side.

AYES: Council Members Hilson, Jimenez, Ward, Dowling
MAYOR Cooper
NOES: Council Members Rodriquez, Henson
ABSENT: None
ABSTAINED: None

B. Review and Approval of Ground Lease and Construction Agreement

Staff report submitted by Director of Public Works Butler, dated October 19, 1999, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried by the following roll call vote to approve the following along with an additional proviso that staff confirm that this agreement is consistent with other similar uses at the airport.

AYES: Council Members Jimenez, Ward, Dowling,
MAYOR Cooper
NOES: Council Members Hilson, Rodriquez, Henson
ABSENT: None
ABSTAINED: None

Resolution 99-166, "Resolution Authorizing the City Manager to Execute the Ground Lease and Construction Agreement with Home Depot Inc. for the Development of Airport Property on Hesperian Boulevard"

COUNCIL REPORTS

Council Member Hilson reported on his recent trip to Fort Lauderdale for the National League of Cities meeting regarding transportation.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 9:59 p.m.

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APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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